



HW 3781

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application of: Kenneth S. Bloom, et al.  
Serial No.: 09/994,554  
Filing Date: November 27, 2001  
Confirmation No.: 8757  
Title: PLASTIC CLOSURE, METHOD OF  
MANUFACTURE, AND CLOSURE AND  
CONTAINER PACKAGE FOR HIGH  
TEMPERATURE APPLICATIONS  
Attorney Docket: 17724  
Group Art Unit: 3781  
Examiner: R. A. Hylton

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**CERTIFICATE OF MAILING**

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On September 11, 2007  
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**REPLY TO EXAMINER'S ANSWER**

Applicants' basic position is set forth in the Appeal Brief filed March 29, 2007. This Reply is addressed to arguments made by the Examiner in the Answer mailed July 17, 2007.

Concerning the rejections under 35 USC 112, first and second paragraphs, it is uncontested by the Examiner that the application text and drawings as filed disclose exemplary embodiments of the invention in which a bead 66 (FIGS. 2 and 8, for example) loosely captures the disk 46 parallel to but separate from the base wall of the closure. Thus this language in the application claims clearly is "enabled" by the text and drawings of the application as filed.

Furthermore, there is no requirement that all structural details of the exemplary embodiments disclosed in the text and drawings must be recited in the application claims. This is particularly true when the details in question are not a "point of novelty" over the prior art. Indeed, note that both of the primary references cited by the Examiner disclose structure for loosely retaining the sealing disks of those disclosures parallel to but spaced from the closure shell base wall. See the "circular projection" 10 in Takano 5,984,124 and the "projection" 19 in the drawings of Racine 6,581,793.

In summary, the rejections under 35 USC 112, first and second paragraphs clearly should be reversed.

Turning next to the prior art rejections, the Examiner's position in a nutshell is that, inasmuch as sealing liners are well known in the art as exemplified by the secondary McBride reference 6,761,275, it would have been "obvious" to persons of ordinary skill in the art to incorporate a liner into other closure structures such as those disclosed in Takano and Racine even when the disclosures of such references perform their sealing functions without a liner. Sealing liners cost money, both in terms of the material cost of the liner and the processing cost of placing

the liner within the shell. The material cost issue is even more pronounced where barrier resin materials are involved. Persons of ordinary skill in the art would not include a liner in a closure assembly where no liner is required - e.g., where the closure otherwise performs its sealing function without a liner.

The Takano reference employs a plug seal wall 11 that seals the package in and of itself.

A circular inner sealing member 11, by means of which the packing 9 is tightly insertable into the inner surface 13 of the mouth portion of the container...is formed on the packing 9 (column 5, lines 49-56).

Use of a liner would be entirely superfluous in Takano.

The fluid seal disk in Racine, on the other hand, is expressly disclosed as being elastically deformable in and of itself.

The fluid seal [is] made of plastics material capable of being elastically deformed (column 2, lines 20-21).

This elastic deformation is clearly shown in FIG. 5. Persons of ordinary skill in the art hardly would be motivated to apply a liner to the disk in Racine when the elastically deformable sealing function normally associated with a liner already is performed by the disk itself.

It also is noted that the Answer does not address the argument presented in the Appeal Brief relative to claim 62 and the annular rib 78 around the radially outer edge of the disk base. There is nothing like this in the cited references.

It therefore is believed and respectfully submitted that all rejections of the application claims should be reversed.

Please charge any fees associated with this submission to Account No. 15-0875 (Owens-Illinois).

Respectfully submitted,  
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